

The parish council

THE COUNCIL

Your council is a corporate body, a legal entity separate from that of its members. Its decisions are the responsibility of the whole body. The council has been granted powers by Parliament including the important authority to raise money through taxation (the precept) and a range of powers to spend public money (more later).

THE RULES

What can you do? What must you do? What must you not do? The rules may not be exciting, but without understanding them your council could run into trouble.

- A council must do what the law requires it to do.
- A council may do only what the law says it may do.
- A council cannot do anything unless permitted by legislation.

The crucial question is – does the council have a legal power to act? A council must always ask this question when making a decision, especially if it involves public money.

See appendix for laws

WHAT DOES YOUR COUNCIL DO?

Community safety, housing, street lighting, allotments, cemeteries, playing fields, community centres, litter, war memorials, seats and shelters, rights of way and some aspects of planning and highways – these are some of the issues that concern parish government.

“General Power of Competence” eligibility:

- Greater than 2/3 elected councillors
- Clerk holds CilCA qualification

In April 2012, the Government introduced the [general power of competence](#) for eligible local councils. The general power of competence is designed to make it easier for eligible councils¹ to act. It is intended to permit eligible local councils to do anything that an individual might do, as long as other legislation does not forbid it. This could include, for example, the development of land for residential or commercial purposes.

Councils who are not eligible to use the general power of competence can undertake an activity only when specific legislation allows it. There is a useful list of activities and specific legal powers in Part Five of this guide. Acting without the legal power is an unnecessary risk which could lead to financial and legal difficulties.

Parish councillors

As a councillor you have a responsibility to:

- attend meetings when summoned to do so; the notice to attend a council meeting is, in law, a summons, because you have a duty to attend
- consider, in advance of the meeting, the agenda and any related documents which were sent to you with the summons
- take part in meetings and consider all the relevant facts and issues on matters which require a decision including the views of others expressed at the meeting
- take part in voting and respect decisions made by the majority of those present and voting
- ensure, with other councillors, that the council is properly managed

COUNCILLORS' CONDUCT AND INTERESTS

There seven Nolan principles apply to the conduct of people in public life. They are:

Selflessness – you should act in the public interest

Integrity – you should not put yourself under any obligations to others, allow them improperly to influence you or seek benefit for yourself, family, friends or close associates

Objectivity – you should act impartially, fairly and on merit

Accountability – you should be prepared to submit to public scrutiny necessary to ensure accountability

Openness – you should be open and transparent in your actions and decisions unless there are clear and lawful reasons for non-disclosure

Honesty – you should always be truthful

Leadership – as a councillor, you should promote, support and exhibit high standards of conduct and be willing to challenge poor behaviour.

CODE OF CONDUCT

Each local council must adopt and publicise a code of conduct that is in line with the Nolan principles. The code should deal with councillors' obligations about their conduct including the registration and disclosure of their interests (see below). Complaints about councillors' conduct are dealt with by the principal authority.

Meetings 1

MEETINGS

Council meetings are important; this is where you play your part as a decision maker. The chairman is in charge of the meeting, and the clerk (or perhaps a deputy) supports the council as it discusses business. The meeting is the council team in action.

Council meetings and committee meetings are formal events, not social occasions. They have a clear purpose – to make decisions – and are not just talking shops. Furthermore, they are public events; the meetings must be advertised and the press and public have a right to observe, record and report on how the council operates. The same approach should be adopted for sub-committees. Exceptions are when sensitive issues are discussed (such as legal, contractual or staffing matters) and then the council can agree to exclude the press and public for just that item of business.

The council must advertise the meetings by putting up public notices; electors have a right to attend, record and report on public meetings. You may be wondering when they have their say. Many councils encourage members of the public to speak and ask questions in a short, defined period, early in the meeting.

TWO ANNUAL MEETINGS

If you are elected in May your first meeting will be the [Annual Meeting of the Council](#). This is where you elect a chairman and probably a vice-chairman, and appoint committee members and representatives to other bodies. Remember that this is a meeting of the council.

The [Annual Parish or Town Meeting](#) is not a council meeting. It is a meeting of the parish or town electors taking place between 1 March and 1 June. Electors can

contribute to the agenda and in practice these meetings often celebrate local activities and debate current issues in the community.

Meetings 2

Lawful decisions only:

- Business on which you wish to make decisions **must be on the agenda**
 - Therefore, proposals must be put forward in advance and be something the council can lawfully act on (No AOB!)
- Decisions by **majority vote** of those present at the meeting
 - You don't all have to agree...

The Chairman will allow enough time for you to have your say – then make a proposal, or just vote if the proposal is already there
- How things get on the agenda:
 - Standard statutory items: Approve minutes, Finances, Declaration of Interests etc...
 - Clerk adds it because they require a decision that is not already specified by council policy
 - Councillor requests a proposal to be added (required 5 clear days before a meeting)

Guidance from Beds Association of Town and Parish Councils:

“The open forum is an opportunity for members of the public to comment on items on the agenda or raise items for a council to consider at a future meeting. No business is transacted in the open forum. The Chairman has procedural authority. Councillors should not respond to matters raised in the open forum unless asked to do so by the Chairman eg in the case of a simple question asked requiring a simple answer. However, there should not be any discussion of matters raised. If matters raised are comments on agenda items, these will have been heard and can be taken into account when that point on the agenda is reached. If they are new business for council’s consideration they are also un-notified business, and will be discussed on a future agenda (if relevant).”

Society of Local Council Clerks (SLCC):

“The council may have arrangements for hearing members of the public. Your Standing Orders should ensure that this is limited to a fixed timescale for each person to speak for no more than, say, 3 or 5 minutes, and for the matter to be formally referred to a committee, or to be placed on the agenda of the next meeting, or responded to by the Clerk, or simply noted, so that there is no discussion at the meeting on a matter for which there has been no prior notice on the agenda.”

Local Council Administration – Arnold Baker

“Public participation... It is important that such a session does not become a debate with the council or individual councillors and that members of the public do not intervene in the meeting at any other time... It can be necessary for the Chairman to exercise firm control if there is a contentious local issue.”

Interests

COUNCILLORS' INTERESTS

As a councillor, you must abide by rules that apply to the disclosure of some business or financial interests. These are called “disclosable pecuniary interests” or “DPIs”. DPIs include your employment, ownership of land, and business interests in your parish. Other interests are usually non-pecuniary or personal interests. Your council’s code will establish what actions you must take for personal interests.

You must disclose to your principal authority’s **monitoring officer** any DPIs and any other disclosable interests that are referred to in your council’s code of conduct within 28 days of becoming a member of the council. The monitoring officer will make a register of your interests available to the public – usually on the principal authority’s website. This rule on disclosure also applies to your spouse, civil partner or cohabitee, as if their interests were yours. You should be aware that the register of interests does not distinguish between a councillor’s interests and those that are held by your partner.

DISPENSATIONS

A council can decide that a councillor with a DPI can participate and vote on a council motion. This is called granting a **dispensation**. If you have a DPI but think you should be able to participate in the discussion and vote on the matter, you put your request in writing to the council. Your clerk will advise. As a councillor, you can vote on your own request for a dispensation.

AT THE MEETING

What if you cannot attend? Remember, you have a duty to attend but sometimes things crop up and you are unable to make it. You must contact the clerk with an apology and explanation. A darts match is not an adequate excuse whereas illness or work commitments are acceptable reasons. If you fail to attend any meetings for six months, you will automatically cease to be a councillor unless the council approved your reason for absence before the end of the six month period.

From the Standing Orders (Rules for the council):

Unless he has been granted a dispensation, a councillor or non-councillor with voting rights shall withdraw from a meeting when it is considering a matter in which he has a disclosable pecuniary interest. He may return to the meeting after it has considered the matter in which he had the interest.

Where a matter arises at a meeting which relates to a financial interest of a friend, relative or close associate, the member shall disclose the nature of the interest and not vote on the matter. He/she may speak on the matter only if members of the public are also allowed to speak at the meeting.

Chairman

RESPECTING THE CHAIRMAN

The chairman is in charge during council meetings; this is an office created by legislation commanding respect. Remember, the chairman is elected at the Annual Meeting of the Council for one year. Chairmen have a duty to ensure that council meetings run smoothly, that all business is properly considered and all councillors who wish to speak can do so. It is good practice for the chairman to refer to the clerk for advice.

The chairman has few special powers. For instance, it is unlawful for a council to delegate decision making to any individual councillor and the chairman is no different. However, when a vote is tied, the chairman may use a second, or casting vote.

Clerk

- Responsibility for the administration of the council, for managing staff, and for carrying out the council's decisions
- Works for council as a corporate entity and carries out the work of the council. Acts on the will of the majority of the council or with previously agreed policy
- Clerks objectively advise and support the whole council, and "do not allow themselves to be unduly influenced by the views and needs of any individual councillor"
- Advising the council before it takes a decision and warning it against proceeding with course of action that is unlawful

Appendix
Full list of powers

Function	Powers & Duties	Statutory Provisions
Allotments	Powers to provide allotments. Duty to provide allotment gardens if demand unsatisfied and if reasonable to do so	Small Holding & Allotments Act 1908, s.23
Borrowing money	Power for councils to borrow money for their statutory functions or for the prudent management of their financial affairs	Local Government Act 2003, Schedule 1, para. 2
Baths (public)	Power to provide public swimming baths	Public Health Act 1936, s.221
Burial grounds, cemeteries and crematoria	Power to acquire and maintain	Open Spaces Act 1906, Sections 9 and 10
	Power to provide	Local Government Act 1972, s.214
	Power to contribute towards expenses of cemeteries	Local Government Act 1972, s.214 (6)
Bus Shelters	Power to provide and maintain shelters	Local Government (Miscellaneous Provision) Act 1953, s.4
Byelaws	Power to make byelaws for: Places of public recreation	Public Health Act 1875, s.164
	Cycle parks	Road Traffic Regulation Act
	Public swimming baths	Public Health Act 1936, s.223
	Open spaces and burial grounds	Open Spaces Act 1906, s.15
	Mortuaries and post-mortem rooms	Public Health Act 1936, s.198
Charities	Duties in respect of parochial charities	Charities Act 2011, ss.298–303
	Power to act as charity trustees	Local Government Act 1972, s.139 (1)

Function	Powers & Duties	Statutory Provisions
Clocks	Power to provide public clocks	Parish Councils Act 1957, s.2
Closed Churchyards	Powers to maintain	Local Government Act 1972, s.215
Commons and commonpastures	Powers in relation to inclosure, regulation, management and provision of common pasture	Inclosure Act 1845; Small Holdings and Allotments Act 1908, s.34
Conference facilities	Power to provide and encourage use of facilities	Local Government Act 1972, s. 144
Community Centres	Power to provide and equip buildings for use of clubs having athletic, social or educational objectives	Local Government Act 1972 (Miscellaneous Provisions) Act 1976 s. 19
	Power to acquire, provide and furnish community buildings for public meetings and assemblies	Local Government Act 1972, s. 133
Crime Prevention	Power to spend money on crime detection and prevention measures	Local Government and Rating Act 1997, s. 31
Ditches and ponds	Power to drain and maintain ponds and ditches to prevent harm to public health	Public Health Act 1936, s.260
Entertainment and the arts	Provision of entertainment and support of the arts	Local Government Act 1972. S.145
Environment	Power to issue fixed penalty notices for litter, graffiti and offences under dog control orders	Clean neighbourhoods and Environment Act 2005, s.19, s.30, Part 6
General Power of Competence	Power for an eligible council to do anything subject to statutory prohibitions, restrictions and limitations which include those in place before or after the introduction of the general power of competence	Localism Act 2011, ss 1–8

Function	Powers & Duties	Statutory Provisions
Gifts	Power to accept	Local Government Act 1972, s.139
Highways	Power to repair and maintain public footpaths and bridle-ways.	Highways Act 1980, ss. 43, 50
	Power to light roads and public places	Parish Councils Act 1957, s. 3; Highways Act 1980, s.301
	Power to provide parking places for vehicles, bicycles and motor cycles.	Road Traffic Regulation Act 1984, ss. 57, 63
	Power to enter into agreement as to dedication and widening	Highways Act 1980, ss. 30, 72
	Power to provide roadside seats and shelters	Parish Councils Act 1957, s. 1
	Power to consent to a local highway authority stopping maintenance of a highway or stopping up/ diverting a highway	Highways Acts 1980, ss.47, 116
	Power to complain to district council about the protection of rights of way and roadside waste	Highways Act 1980, s. 130
	Power to provide certain traffic signs and other notices	Road Traffic Regulation Act 1984, s. 72
Power to plant trees and shrubs and to maintain roadside verges	Highways Act 1980, s. 96	
Honorary Titles	Power to admit to be honorary freemen/ freewomen of the council's area persons of distinction and persons who have, in the opinion of the authority, rendered eminent services to that place or area.	Local Government Act 1972, s. 249

Function	Powers & Duties	Statutory Provisions
Investments	Power to participate in schemes of collective investment	Trustee Investments Act 1961, s. 11
Land	Power to acquire by agreement, to appropriate, to dispose of	Local Government Act 1972, ss. 124, 126, 127
	Power to accept gifts of land	
Litter	Provision of bins	Litter Act, 1983, ss. 5, 6
Lotteries	Powers to promote	Gambling Act 2005, s. 252, 258
Markets	Power to establish or acquire by agreement markets within the council's area and provide a market place and market building	Food Act 1984, s. 50
Mortuaries and post-mortem rooms	Power to provide mortuaries and post-mortem rooms	Public Health Act 1936, s. 198
Neighbourhood Planning	Powers to act as lead body for a neighbourhood development plan or a neighbourhood development order	Localism Act 2011, Schedule 9; Town and Country Planning Act 1990, ss. 61E-61Q, Schedule 4B; Planning and Compulsory Purchase Act 2004, s. 38A
Newsletter	Power to provide information relation to matters affecting local government	Local Government Act 1972, s. 142
Nuisances	Power to deal with offensive ditches	Public Health Act 1936, s. 260
Open spaces	Power to acquire and maintain land for public recreation	Public health Act 1875, s. 164
	Power to acquire and maintain land for open spaces	Open spaces act 1906, ss. 9 and 10

Function	Powers & Duties	Statutory Provisions
Parish Property and documents	Power to receive and retain	Local Government Act 1972, s. 226
	Duty to deposit certain published works in specific deposit libraries	Legal Deposit Libraries Act 2003, s. 1
Public buildings and village hall	Power to acquire and provide buildings for public meetings and assemblies	Local Government Act 1972, s. 133
Public Conveniences	Power to provide	Public Health Act 1936, s. 87
Recreation	Power to provide a wide range or recreational facilities	Local Government (Miscellaneous Provisions) Act 1976, s. 19
	Provision of boating pools	Public Health Act 1961, s. 54
Right to challenge services that are provided by a principal authority	The right to submit an interest in running a service provided by a district, county or unitary authority	Localism Act 2011, ss. 81–86
Right to nominate and bid for assets of community value	The right to nominate assets to be added to a list of assets of community value and the right to bid to buy a listed asset when it comes up for sale	Localism Act 2011, ss. 87–108
Town and Country Planning	Right to be notified of planning applications if right has been requested	Town and Country Planning Act 1990, Sched. 1, para.8
Tourism	Power to encourage tourism to the council's area	Local Government Act 1972, s. 144
Traffic Calming	Power to contribute financially to traffic calming schemes	Local Government and Rating Act 1997, s. 30

Function	Powers & Duties	Statutory Provisions
Transport	Powers to spend money on community transport schemes	Local Government and Rating Act 1997, s. 26–29
War memorials	Power to maintain, repairs, protect and adapt war memorials	War Memorials (Local Authorities' Power) Act 1923, s. 1
Water	Power to utilise wells, springs or streams for obtaining water	Public Health Act 1936, s. 125
Websites	Power for councils to have their own websites	Local Government Act 1972, s. 142

NOTES